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16 *Co-Lead/Liaison Counsel for Plaintiffs*

17
18 IN THE UNITED STATES DISTRICT COURT
19
20 FOR THE DISTRICT OF ARIZONA

21 IN RE: Bard IVC Filters Products
22 Liability Litigation,

23 No. 2:15-MD-02641-DGC

24 **PLAINTIFFS' CO-LEAD/LIAISON
25 COUNSEL'S MEMORANDUM RE
26 LEADERSHIP APPOINTMENTS**

27 In accordance with this Court's Case Management Order No. 1, Plaintiffs' Co-
28 Lead/Liaison Counsel submits this memorandum regarding appointments to the Plaintiffs'
Leadership Committee (PLC).

29 In Case Management Order No. 1, this Court appointed Ramon R. Lopez of Lopez
30 McHugh and Robert W. Boatman of Gallagher & Kennedy as Plaintiffs' Co-Lead/Liaison
31 Counsel and State/Federal Liaison Counsel. The Court also appointed 20 attorneys from
32 various firms to the Plaintiffs' Steering Committee. The Court set these appointments for
33 a one-year term and ordered the Co-Lead/Liaison Counsel file a memorandum notifying
34 the Court of the need to make further appointments and making recommendations
35 regarding those appointments thirty days before the expiration of the one-year term.

1 After one year of this litigation, Plaintiffs' Co-Lead Counsel are proud to report
2 that the leadership structure appointed by this Court has been both highly active and
3 highly effective. That attorneys this Court appointed and their firms have brought
4 considerable experience in mass tort litigation to this MDL and have collectively
5 committed thousands of hours to the litigation. The leadership group has been very
6 effective in working together to prosecute this litigation. Co-Lead Counsel and the PSC
7 firms have been active in discovery with numerous attorneys and law firms taking and
8 participating actively in depositions and other discovery. All counsel have worked
9 together collegially and collectively and for the benefit of all the plaintiffs in this MDL (a
10 significant number of whom are represented by firms in leadership).

11 Subject to the following proposed changes to the PLC[®], Co-Lead Counsel and all
12 PSC members recommend re-appointment of Co-Lead Counsel and all PSC members.

13 Withdrawal from the PSC. Troy Brenes (formerly of Lopez McHugh) has
14 requested permission to withdraw from the PSC subject to his right to apply for common
15 benefit fees and costs for the Brenes Law Group consistent with Case Management Order
16 No. 6. Co-Lead Counsel has accepted Mr. Brenes's resignation, and Mr. Brenes does not
17 seek reappointment to the PSC.

18 Substitution of PSC Appointment. During the past year, Turner W. Branch of the
19 Branch Law Firm passed away. Margaret Branch, his wife and a practicing mass-tort
20 attorney, has requested that she be substituted in to the PSC in place of Mr. Branch.
21 Plaintiffs' Co-Lead Counsel and the other PSC Members support Mrs. Branch's
22 appointment. A copy of Margaret Branch's information and materials supporting her
23 application for substitution appointment are attached as Exhibit A.

24 Plaintiffs' Co-Lead Counsel and the other members of the PSC support this
25 substitution and request that the Court appoint Mrs. Branch to the PSC.

26 Proposed New PSC Members. After this Court's appointment of PSC members,
27 Matthew Schultz of Levin Papantonio Thomas Mitchell Rafferty Proctor, P.A. and Steve
28 Rotman of the Hausfeld law firm requested to be actively involved in the prosecution of

1 the litigation with the hope of a subsequent appointment by this Court to the PSC. In the
 2 past eight to ten months, Both Mr. Schultz and Mr. Rotman have been actively involved in
 3 this MDL on behalf of Plaintiffs; both have participated in and taken depositions of Bard
 4 corporate witnesses; both have attended and participated in PSC meetings and phone calls;
 5 and both have contributed substantively and financially to the prosecution of Plaintiffs'
 6 claims.

7 The supporting information and materials for Mr. Schultz and Mr. Rotman are
 8 attached as Exhibits B and C, respectively. Plaintiffs' Co-Lead Counsel and the other
 9 members of the PSC support these applications and request that the Court appoint Messrs.
 10 Schultz and Rotman to the PSC.

11 Creation of Plaintiffs' Executive Committee (PEC). Co-Lead/Liaison Counsel
 12 recommend that an Executive Committee be established from existing members of the
 13 PSC to serve as an experienced and diversified advisory body to advise and collaborate
 14 with Lead Counsel in the further administration, organization and strategic decisions in
 15 the further interest of all Plaintiffs. The following are examples of other MDLs involving
 16 drug/medical device products liability actions in which Co-Lead Plaintiffs' Counsel,
 17 Ramon R. Lopez, was a Lead, PEC and/or PSC member which included a similar
 18 executive committee structure: *In re Lipitor* (MDL No. 2502); *In re Gadolinium* (MDL
 19 No. 1909); *In re Pradaxa* (MDL No. 2385); *In re Incretins* (MDL No. 2452); *In re*
 20 *Rezulin* (MDL No. 1348), and *In re Chantix* (MDL No. 2092).¹

21 While many members of the PSC would qualify and are worthy of such an
 22 appointment, Co-Leads recommend and have asked the following current members of the
 23 PSC to serve in the capacity of a four-member PEC: Mr. Howard Nations, Ms. Julia Reed
 24 Zaic, Mr. Russell Budd and Ms. Wendy Fleishman. Each has formally accepted this
 25 request and have committed to the structure and purpose of this committee. They and
 26 other members of their firms have been significantly involved in virtually every aspect of

27 ¹ Brand names of products in some case names substituted for chemical or generic names as
 28 appear in official title of MDL caption.

1 this litigation since inception. This revised structure will not hamper, but rather enhance
2 our policy of open and inclusive participation and contribution by our entire PLC as we
3 proceed. More importantly, it will enhance the ability of our PLC to meet the demands of
4 the completion of our duties and commitment to this case. We respectfully direct the
5 Court's attention to the original applications of each for their background and experience
6 in similar complex cases and to further support this request.

7 Conclusion.

8 Accordingly, Plaintiffs' Co-Lead/Liaison Counsel and the PSC request that this
9 Court reappoint Plaintiffs' Co-Lead/Liaison Counsel and reappoint the members of the
10 PSC with the following changes: (1) removing Troy Brenes from the PSC, (2) removing
11 Turner Branch from the PSC and substituting Margaret Branch in his position, (3)
12 appointing Matthew Schultz and Steve Rotman as members of the PSC.

13 RESPECTFULLY SUBMITTTED this 31st day of October 2016.

14 GALLAGHER & KENNEDY, P.A.

15 By: s/ Robert W. Boatman

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Certificate of Service

I hereby certify that on this 31st day of October, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/Deborah Yanazzo

Deborah Yanazzo

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